

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

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June 2008

### **2008 LAWS AFFECTING CITIES AND TOWNS**

The following is a listing of laws enacted by the General Assembly that are related to cities, towns and municipally owned utilities. This is not intended to be an expression of a legal opinion. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law order sequence and the references are to the Indiana Code.

#### **PUBLIC LAW 1 – HOUSE ENROLLED ACT 1010 – VARIOUS DATES**

LOCAL OPTION INCOME TAXES – NONCODE – Extends the deadline for adopting local income taxes to December 31, 2007.

HOMESTEAD CREDITS – NONCODE – Extends deadline to October 1, 2007 for filing for a homestead credit for 2008.

#### **PUBLIC LAW 2 – SENATE ENROLLED ACT 190 – EFFECTIVE JULY 1, 2008**

TITLE 15 RECODIFICATION – Recodifies the laws dealing with agriculture and animals.

MARIJUANA ERADICATION PROGRAM FEE - Amends IC 33-37-5-7 – Changes the code references formerly in IC 15-3-4.6-4.1 and IC 15-3-4.6-1 to IC 15-16-7-8 and IC 15-16-7-3.

#### **PUBLIC LAW 3 – HOUSE ENROLLED ACT 1137 – EFFECTIVE MARCH 13 AND**

JULY 1, 2008 – TECHNICAL CORRECTIONS – Makes many technical corrections to the Indiana Code.

#### **PUBLIC LAW 12 – SENATE ENROLLED ACT 133 – EFFECTIVE JULY 1, 2008**

PERF BENEFITS – Adds IC 5-10.2-5-43 – Amends IC 5-10.3-8-10 – Provides a cost of living adjustment for retired PERF members. States that the pension portion of the monthly benefit payable to a retired member of PERF, excluding elected officials, may not be less than \$180. Provides that benefit payments may be assigned by a member to pay insurance premiums to certain associations.

#### **PUBLIC LAW 13 – SENATE ENROLLED ACT 219 – EFFECTIVE JULY 1, 2008**

LACTATION BREAKS – Adds IC 5-10-6-2 and IC 22-2-14 - Amends IC 4-1-2-1 – Requires the State and all political subdivisions to provide paid reasonable break time each day to an employee who needs to express breast milk for the employee's infant child. The break time must, if possible, run concurrently with any break time already provided. The political subdivision must make reasonable efforts to provide privacy to such employees in an area in close proximity to the workplace and to provide cold storage.

#### **PUBLIC LAW 15 – HOUSE ENROLLED ACT 1077 – EFFECTIVE JULY 1, 2008**

MEMORIAL DAY EXPENSES – Amends IC 10-18-8-1 –

Removes the \$500 annual appropriation limit that a city or town could use to support certain Veteran organizations to defray Memorial Day expenses.

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**PUBLIC LAW 16 – HOUSE ENROLLED ACT 1275 – EFFECTIVE JULY 1, 2008**

**COPY FEES** – Amends IC 5-14-3-8 – States that the fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the greater of:

- (1) Ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or
- (2) The actual cost to the agency of copying the document.

States that “actual cost” means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs. The fee established must be uniform throughout the public agency and uniform to all purchasers.

**PUBLIC LAW 17 – SENATE ENROLLED ACT 26 – EFFECTIVE JULY 1, 2008**

**SMOKE DETECTORS – RENTAL PROPERTIES** – Adds IC 22-11-18-5.5 and IC 32-31-5-7 – Amends IC 22-11-18-1, IC 22-11-18-5, IC 32-31-7-5 and IC 36-8-17-8 – Makes it a Class B infraction if a landlord fails to properly install a smoke detector at the time the tenant moves in or repair an inoperative detector within 7 days of receiving notice. Makes it a Class A infraction for subsequent violations. Permits fire departments to inspect private dwellings, upon request of an owner or primary lessee, for fire safety.

**PUBLIC LAW 27 – HOUSE ENROLLED ACT 1145 – EFFECTIVE JULY 1, 2008**

**SALE OF REAL PROPERTY – ABUTTING LANDOWNERS** – Adds IC 36-1-11-5.9 – Amends IC 36-1-11-3 and IC 36-1-11-4 – Allows for the disposal of real property acquired by tax default to an abutting land owner without consideration or for a nominal consideration. Requires notice by certified mail to all abutting landowners and negotiation and sale of the tract. Provides that if more than one eligible abutting landowner submits an offer, then all lower offerers shall be informed of the higher offer and shall be given an opportunity to submit one additional offer.

**PUBLIC LAW 28 – HOUSE ENROLLED ACT 1156 – EFFECTIVE JULY 1, 2008**

**POLICE AND FIRE DEATH BENEFITS** – Amends IC 36-8-6-9.8, IC 36-8-7-13, and IC 36-8-8-16 – Raises the death benefit payable to the heirs or estates of active and retired members of the 1925, 1937, and 1977 police and fire pension plans from \$9,000 to \$12,000.

**PUBLIC LAW 33 – HOUSE ENROLLED ACT 1227 – EFFECTIVE JULY 1, 2008**

**SHORELINE DEVELOPMENT COMMISSION** - Amends IC 36-7-13.5-2  
Adds two members to the commission. States that one member appointed by the lieutenant governor preferably be from a visitor and tourism business.

**PUBLIC LAW 36 – HOUSE ENROLLED ACT 1253 – EFFECTIVE JULY 1, 2008**

**MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS** – Amends IC 9-21-2-1 and IC 9-21-2-3 – Requires the Indiana Department of Transportation (INDOT) to adopt the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways by order of the commissioner of INDOT with a letter of concurrence from the Federal Highway Administration.

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PUBLIC LAW 37 – SENATE ENROLLED ACT 281 – EFFECTIVE JULY 1, 2008

FELONY CONVICTIONS – PUBLIC OFFICERS – Adds IC 5-8-1-38 - Clarifies laws dealing with the conviction of a felony and forfeiture of office. States that the subsequent reduction of a felony to a Class A misdemeanor does not affect the forfeiture of office provisions under certain circumstances.

PUBLIC LAW 39 – HOUSE ENROLLED ACT 1244 – EFFECTIVE JULY 1, 2008

SEWER LIENS – Amends IC 36-9-23-33 – Requires the county auditor to immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next installment of property taxes. Prior law made such entry in the duplicate to be made not later than the next May installment.

PUBLIC LAW 48 – SENATE ENROLLED ACT 139 – EFFECTIVE JULY 1, 2008

PROBATION AND HOME DETENTION – Amends IC 35-38-2-3 and IC 35-38-2.5-5.5 - States that an offender who is placed on home detention and who resides in a county adjacent to the county in which the sentencing court is located may be supervised by a probation department located in the county in which the sentencing court is located.

PUBLIC LAW 51 – SENATE ENROLLED ACT 207 – EFFECTIVE JULY 1, 2008

PUBLIC RECORDS – CRIMINAL OFFENDERS – Amends IC 5-14-3-2 and IC 5-14-3-4 Provides that cities and towns may deny access to public records requested by an offender that contain personal information relating to: a correctional officer; the victim of a crime; or a family member of a correction officer or victim of a crime; or concern or could affect the security of a jail or correctional facility.

PUBLIC LAW 65 – HOUSE ENROLLED ACT 1114 – EFFECTIVE JULY 1, 2008

TOWN POLICE AND FIRE RESIDENCY REQUIREMENTS – Adds IC 36-8-4.5 – Amends IC 36-8-4-2 - Requires members of a town police or fire department to reside in Indiana within:

- (1) The county in which the town is located; or
- (2) A county that is contiguous to the county in which the town is located.

A town with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the town police or fire department to satisfy all of the following:

- (1) Reside within:
  - (A) The county in which the town is located; or
  - (B) A distance from the town stated in the ordinance.
- (2) Have adequate means of transportation into the town.
- (3) Maintain in the member's residence telephone service with the town.

The ordinance adopted may not require a member of a town police or fire department to comply if the member resides:

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- (1) Outside the county; or
- (2) A distance outside the town greater than stated in the ordinance, on the date the ordinance is adopted.

Notwithstanding any other law, a member appointed to a town police department under IC 36-5-7 or IC 36-8-9 before July 1, 2008, may not be required to reside within:

- (1) The county in which the town is located; or
  - (2) A county that is contiguous to the county in which the town is located;
- if the member resided within a county that is noncontiguous to the county in which the town is located on July 1, 2008.

Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the town is located except:

- (1) During the performance of official duties; or
- (2) As provided for by department regulation.

Establishes a separate statute for residency requirements for members of city police and fire departments in IC 36-8-4-2.

**PUBLIC LAW 69 – HOUSE ENROLLED ACT 1162 – EFFECTIVE JULY 1, 2008**

**LEGISLATIVE BODY YOUTH ADVISORS** – Adds IC 2-5-29 and IC 36-4-13 – Allows the presiding officer of the municipal legislative body to appoint an individual who is not more than 18 years of age to serve as an advisor to the legislative body on matters affecting youth in the community.

**PUBLIC LAW 76 – SENATE ENROLLED ACT 51 – EFFECTIVE JULY 1, 2008**

**REEMPLOYMENT – PERF** – Amends IC 5-10.2-3-3, IC 5-10.2-4-8, IC 5-10.2-4-9, IC 5-10.2-4-10, IC 5-10.4-4-11, and IC 5-10.4-5-13 - Reduces the 90 day waiting period to 30 days for persons retired from PERF or TRF to be reemployed in covered positions and continue to receive benefits.

**PUBLIC LAW 89 – SENATE ENROLLED ACT 334 – EFFECTIVE MARCH 19, 2008**

**SEVERE WEATHER WARNING SIRENS** – Adds IC 36-8-21.5 – Requires the Department of Homeland Security to adopt rules to establish minimum technical standards for severe weather warning sirens, circumstances when sirens may be activated, information required on siren coverage reports and siren coverage plans, and other rules necessary to assess coverage of sirens in Indiana and determine the need for additional sirens.

**PUBLIC LAW 93 – HOUSE ENROLLED ACT 1065 – EFFECTIVE JULY 1, 2008**

**PERF BENEFITS** – Amends IC 5-10.2-4-7, IC 5-10.2-4-7.2 and IC 5-10.2-4-8.4 – Allows members of PERF to change the member's beneficiary or form of benefit where the member is a party in an action for dissolution of marriage.

**PUBLIC LAW 94 – HOUSE ENROLLED ACT 1118 – EFFECTIVE JULY 1, 2008**

**ALCOHOLIC BEVERAGE PERMITS** – Adds IC 7.1-3-19-11.5 – Amends IC 7.1-3-22-4 Changes the quota provisions for liquor dealer and beer dealer permits.

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PUBLIC LAW 96 – HOUSE ENROLLED ACT 1250 – EFFECTIVE JULY 1, 2008

TIPPECANOE COUNTY INNKEEPERS TAX - Amends IC 6-9-7-7 – Sets out new allocation percentages of the tax and provides procedures for development of Prophetstown State Park.

STUEBEN COUNTY FOOD AND BEVERAGE TAX – Adds IC 6-9-40 – Allows Steuben County to impose a 1% food and beverage tax to be distributed equally to Steuben County and the City of Angola.

PUBLIC LAW 97 – HOUSE ENROLLED ACT 1318 – EFFECTIVE JULY 1, 2008

LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM FEE – Amends IC 33-37-5-8 - Increases the law enforcement continuing education program fee from \$3 to \$4. Such fee is to be collected on all criminal, infraction, and ordinance violation cases.

PUBLIC LAW 103 – SENATE ENROLLED ACT 226 – EFFECTIVE MARCH 21 AND JULY 1, 2008 – NONSURPLUS MUNICIPALLY OWNED UTILITY PROPERTY –

Amends IC 8-1.5-2-4, IC 8-1.5-2-5, IC 8-1.5-2-6, IC 8-1.5-2-19 and IC 8-1.5-2-19.5 – States that whenever a municipal legislative body determines to dispose of nonsurplus municipally owned utility property, it shall by ordinance or resolution, by a 2/3 vote, provide for the appointment of three residents of Indiana to appraise the property. The appointments must be licensed engineers and appraisers. Requires a public hearing before disposal. Allows for a petition against such sale and provides for the sale to be voted on at a special or general election.

PUBLIC LAW 107 – SENATE ENROLLED ACT 339 – EFFECTIVE VARIOUS DATES

COMMERCIAL DRIVER TRAINING SCHOOLS - Adds IC 5-2-6.5 – Transfers the responsibility of licensing commercial driving training schools from the Bureau of Motor Vehicles to the Indiana Criminal Justice Institute.

OFF-ROAD VEHICLE DEALERS – Amends IC 9-13-2-42 – Requires persons selling at least 12 off-road vehicles each year to obtain a dealer's license.

PUBLIC LAW 114 – SENATE ENROLLED ACT 43 – EFFECTIVE MARCH 24 AND

JULY 1, 2008 – STORM WATER MANAGEMENT BOARDS – FEES – Amends IC 8-1.5-5-7, IC 36-9-23-5, IC 36-9-23-25, IC 36-9-23-26 and IC 36-9-23-36 Adds IC 36-9-23-37 - Sets out procedures to prevent a county department of storm water management and a municipal works board from imposing fees in the same area for storm water management. Requires a memorandum of understanding between the boards that sets out which board will service the area.

SOLID WASTE MANAGEMENT DISTRICTS – Amends IC 13-21-3-12 - States that a solid waste management district may pay a fee to a county that was part of a joint district, has withdrawn from the joint district as of January 1, 2008, and has established its own district in which a final disposal facility is located.

LANDFILLS – Adds IC 13-20-2-10 and IC 13-20-2-11

Provides procedures for a county executive to follow in approving a proposed facility to be constructed after April 1, 2008 in counties that do not zone under IC 36-7-4.

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PUBLIC LAW 115 – SENATE ENROLLED ACT 72 – EFFECTIVE JULY 1, 2008

POLICE AND FIRE CHAPLAINS - DEATH BENEFIT – Adds IC 5-10-10-4.7 – Provides that an eligible chaplain who dies as a direct result of injury or illness resulting from the chaplain's performance of duties as a chaplain for a police or fire department is eligible for a special death benefit from the State's Special Death Benefit Fund.

PERF BENEFITS – Adds IC 5-10.2-3-6.5 and IC 5-10.2-4-1.9 – Amends IC 5-10.2-2-8, IC 5-10.2-3-1.2, IC 5-10.2-3-6.2, IC 5-10.2-4-1.3 and IC 5-10.2-4-2 – Allows eligible vested members to withdraw their annuity savings accounts prior to being eligible to receive benefits when such members retire and be eligible to receive a benefit upon reaching retirement age.

PUBLIC LAW 118 – SENATE ENROLLED ACT 118 – EFFECTIVE JULY 1, 2008

PROPERTY TAX PAYMENTS - Adds IC 6-1.1-22-9.7 – Allows county fiscal bodies to adopt ordinances to allow taxpayers to pay property taxes by automatic monthly deduction from their checking accounts or by payments under a monthly installment plan.

PUBLIC LAW 122 – SENATE ENROLLED ACT 329 – EFFECTIVE JULY 1, 2008

COURT ADMINISTRATION FEE – Amends IC 33-37-5-27  
Raises the court administration fee from \$3 to \$5.

PUBLIC LAW 124 – HOUSE ENROLLED ACT 1019 – EFFECTIVE VARIOUS DATES

PERF BENEFITS – Amends IC 5-10.2-4-6 - Increases the minimum monthly disability benefit from \$100 to \$180.

PUBLIC LAW 126 – HOUSE ENROLLED ACT 1052 – EFFECTIVE JULY 1, 2008

VEHICLE ENTRAPMENT – Adds IC 9-26-1-1.5 – Amends IC 9-26-1-1 and IC 9-26-1-2  
Requires an occupant of a vehicle to give notice of an accident where the driver is physically incapable to give notice.

OPERATING A MOTOR VEHICLE WHILE INTOXICATED – Amends IC 9-26-1-8, IC 9-26-1-9, IC 9-30-5-3, IC 9-30-5-10 and IC 35-50-1-2 – Increases the penalties for operating a motor vehicle while intoxicated.

PUBLIC LAW 128 – HOUSE ENROLLED ACT 1105 – EFFECTIVE VARIOUS DATES

LAW ENFORCEMENT OFFICER TRAINING – Amends IC 5-2-1-9 – Requires a law enforcement officer who: (1) has less than 25 years experience as a law enforcement officer; and (2) has not been employed as a law enforcement officer in the 10 years before being hired as a law enforcement officer or is hired in an upper level policymaking position; to repeat the full basic training course in order to regain law enforcement powers. Provides that a law enforcement officer who has at least 25 years experience as a law enforcement officer is not required to repeat the full basic training course but is required to attend a refresher course and a pre-basic training course to regain law enforcement powers. Provides that a refresher course for an officer who has not been employed as a law enforcement officer more than six years but less than ten years and is hired in an upper level policymaking position: (1) may not exceed 120 hours of course work; and (2) must include any credit hours received for completion of the policy chief executive training program.

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FIRE PROTECTION DISTRICTS AND TERRITORIES – Amends IC 5-22-22-12, IC 36-1-11-5.7 and IC 36-8-19-8 – Adds IC 36-8-19-8.6 and IC 36-8-19-15 – Provides that a governmental body may transfer surplus property to the board of fire trustees of a fire protection district or the provider unit of a fire protection territory under the same circumstances that surplus property may be transferred to a volunteer fire department. Provides that a participating unit in a fire protection territory may transfer any money belonging to the participating unit to the fire protection territory fund, the fire protection territory equipment replacement fund, or both funds. Legalizes any transfer of money from a participating unit to a fire protection territory before July 1, 2008. Provides that when a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

**PUBLIC LAW 130 – HOUSE ENROLLED ACT 1119 – EFFECTIVE JULY 1, 2008**

PERF – REEMPLOYMENT – Amends IC 5-10.2-4-8 - Removes the \$35,000 salary exemption for retirees under PERF or TRF who are reemployed in covered positions more than 30 days after the member's retirement.

LEAVES OF ABSENCE – POLICE AND FIREFIGHTERS – Amends IC 36-8-5-2 and IC 36-8-5-10 – Allows police officers and firefighters to be granted leaves of an absence for service in elected positions. Requires such persons or their employers to pay their pension fund contributions while on such leaves of absence.

1925, 1937, and 1977 RETIREMENT PLANS – Adds IC 36-8-6-9.5, IC 36-8-7-12.7 and IC 36-8-8-11.5 – Allows fund members to be rehired by the same city or town in a position not covered by the 1925, 1937, or 1977 plans to continue to receive fund member retirement benefits, unless the IRS rules otherwise.

**PUBLIC LAW 131 – HOUSE ENROLLED ACT 1125 – EFFECTIVE VARIOUS DATES**

PROPERTY TAXES – NONCODE – Allows a city or town to file a late excessive levy appeal based on a revenue shortfall that resulted from erroneous assessed valuation figures.

RECREATIONAL VEHICLES AND TRUCK CAMPERS – Adds IC 6-6-5.1  
Eliminates property taxes on recreational vehicles and truck campers. Permits the DLGF to adjust 2010 tax levies to adjust for the effect of such elimination of property taxes.

**MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA – NONCODE**

Allows certain towns to designate a municipal riverfront development project area within the territorial boundaries of the town.

**ABANDONED VEHICLES ON STATE HIGHWAYS – Amends IC 9-22-1-11**

Requires a police officer that finds an abandoned vehicle or parts on a state highway to place a notice tag that the vehicle or parts will be removed after 36 hours.

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**PUBLIC LAW 137 – HOUSE ENROLLED ACT 1204 – EFFECTIVE MARCH 24, 2008**

**PUBLIC SAFETY ANSWERING POINTS (PSAPs)** – Adds IC 10-13-7 and IC 36-8-16-7.5 – Amends IC 36-8-16 and IC 36-8-16.5-41 – Establishes an Emergency Alert System Advisory Committee. Requires the State Board of Accounts to audit, not later than November 1, 2008, the expenditures of wireline and wireless enhanced 911 fees made by local units and public safety answering points (PSAPs) during the 2005, 2006, and 2007 calendar years. Beginning with the 2008 calendar year, requires the State Board of Accounts to annually audit the expenditures of wireline and wireless enhanced 911 fees made during the immediately preceding calendar year by local units and PSAPs. Provides that after December 31, 2014, a county may not contain more than two PSAPs. Provides that a county may have more than two PSAPs if any additional PSAPs are operated by a state educational institution or by an airport authority established for a county having a consolidated city. Provides that if, on March 15, 2008, a county does not contain more than one PSAP, an additional PSAP may not be established or operated in the county on or after that date unless the additional PSAP is established by: (1) a state educational institution; (2) an airport authority established for a county having a consolidated city; or (3) the municipality having the largest population in the county or an agency of that municipality. Requires each PSAP operator in a county containing more than the authorized number of PSAPs to enter, not later than January 1, 2015, into an interlocal agreement with every other PSAP operator in the county to ensure that the county does not contain more than the authorized number of PSAPs after December 31, 2014. Provides that a unit may not adopt an ordinance to increase a wireline enhanced emergency telephone system fee during the period beginning March 15, 2008, and ending at such time that applicable county has complied with the requirement limiting the number of PSAPs in each county.

**PUBLIC LAW 138 – HOUSE ENROLLED ACT 1219 – EFFECTIVE MARCH 15, 2008**

**UNEMPLOYMENT INSURANCE** – Adds IC 22-4-29-14 – Amends IC 22-4-14-1 and IC 22-4-31-6 – Makes changes in the procedures used for income determination and benefits where an individual accepts an offer from an employer in connection with a layoff or a plant closure.

**PUBLIC LAW 142 – HOUSE ENROLLED ACT 1280 – EFFECTIVE MARCH 24, 2008**

**ENERGY EFFICIENT BUILDINGS – NONCODE** - Requires the environmental quality service council established under IC 13-13-7-1 to study and make findings and recommendations concerning whether State law should require or encourage through incentives the construction and renovation of public buildings and structures with the goal of achieving particular energy and environmental design ratings.

**PUBLIC LAW 144 – HOUSE ENROLLED ACT 1293 – EFFECTIVE JULY 1, 2008**

**SALES DISCLOSURE FORMS** – Amends and adds to various sections of IC 6-1.1 Makes numerous changes to the laws dealing with the transfer of real property and sales disclosure forms.

**PROPERTY MAINTENANCE AREAS** – Adds IC 36-7-35 – Allows cities and towns to establish a property maintenance area (PMA) through the adoption of a PMA ordinance. Such area may not exceed 5% of the total land area of the city or town and must be in an area where the median assessed values do not exceed the median assessed values for that type of property throughout the municipality. Allows cities and towns to provide grants of up to \$1,500 to individuals who perform property maintenance.



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### **PUBLIC LAW 146 – HOUSE ENROLLED ACT 1001 – EFFECTIVE VARIOUS DATES**

**PROPERTY TAX CIRCUIT BREAKERS** – Amends IC 6-1.1-20.6-4 and IC 6-1.1-20.6-7 – Establishes property tax caps on residential homesteads at 1.5% in 2009 and 1.0% in 2010. Establishes caps on agricultural and non-homestead property and all other real and personal property.

**BOND ISSUES** - Amends IC 5-1-13-2, IC 5-1-5-18, IC 5-1-14-10 and IC 5-1-14-16 – Places limits on the use of surplus bond proceeds and bond proceeds from advance refunding. Limits bond repayment period to 25 years for bonds taxable from TIF revenues and 20 years for all other issues.

**BUDGETS – APPOINTED BOARDS** – Amends IC 6-1.1-17-20 and adds IC 6-1.1-17-20.5 – Requires a county council to approve proposed budgets of non-elected boards if their budget increases by more than the Assessed Value Growth Quotient minus one (AVGQ-1).

**BUDGET REVIEW BY COUNTY COUNCIL** – Adds IC 6-1.1-17-3.5 – Requires cities and towns to submit their proposed tax rates and levies and copy of their budgets with the County Council at least 15 days before the civil taxing unit fixes rates and levies and adopts its budget. The County Council shall review and issue a nonbinding recommendation on the proposed rates and levies.

**1925 POLICE AND 1937 FIREFIGHTERS PENSION PLANS** – Amends IC 5-10.3-11 – Requires the State of Indiana to reimburse cities and towns for the amount of benefits paid to members and beneficiaries of the 1925 and 1937 Plans beginning in 2009. Requires the DLGF to reduce the maximum permissible tax levy by the amount of the reimbursement.

**CONTROLLED PROJECTS – REFERENDUMS** – Adds IC 6-1.1-20-3.5 and IC 6-1.1-20-3.6 – Amends IC 6-1.1-20-1.1 and IC 6-1.1-20-3.1 – Adds new procedures for controlled projects and the petition process.

**DISTRESSED UNITS** – Amends IC 6-1.1-20.3-1 – Changes the name of the circuit breaker board to the distressed unit appeal board.

**LOCAL OPTION INCOME TAXES (LOIT)** – Amends IC 6-3.5-1.1-25 – Retains the local option income taxes for replacement of levy growth, property tax relief and public safety expenditures.

**EXCESSIVE LEVY APPEALS** – Amends IC 6-1.1-18.5-13 – Reduces the number of reasons which will be allowed for an excessive levy appeal.

**TAX INCREMENT FINANCE (TIF)** – Amends several sections of IC 36-7-14 – Changes the laws dealing with TIF district expansion. Requires council approval of TIF bond issues. Reduces the term of allocation areas to 25 years.

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PUBLIC LAW 147 – SENATE JOINT RESOLUTION 1 – EFFECTIVE JULY 1, 2008

PROPERTY TAXES – CIRCUIT BREAKERS – Amends Article 10, Section 1 of the State Constitution – Places a 1% circuit breaker on all homestead property, 2% on agricultural land, and 3 % on other real property for taxes payable in 2012. Exempts taxes imposed which were approved by referendum from such limits. Allows the General Assembly to make provisions for the payment of bonds and leases entered into before July 1, 2008 in the event such limits cause a shortfall.

## **GARBAGE COLLECTION AND DISPOSAL**

The following are some statutory references which support the State Board of Accounts' audit position concerning garbage collection and disposal.

IC 36-1-3-8(6) states: A unit does not have the power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges.

IC 36-9-23 is entitled "Municipal Sewage Works" and applies to all municipalities.

IC 36-9-23-25 is entitled "Fees; factors used to establish; persons obligated to pay; disposition of certain fees; adoption of different schedules permitted."

IC 36-9-23-25(d)(8) states the municipal legislative body may use the following factor (among others) to establish sewage service fees: "The cost of collecting, treating, and disposing of garbage in sanitary manner, including equipment and wages." The statute further provides fees collected under subdivision (8) may be spent for that purpose only after compliance with all provisions of the ordinance authorizing the issuance of the revenue bonds for the sewage works.

IC 36-9-25 is entitled "Sanitation Department in Certain Cities" and applies to second class cities in which this statute has been adopted by ordinance and also to municipalities in Lake County that adopted this chapter by ordinance.

IC 36-9-25-10 sets out powers of the board of sanitary commissioners and Section 10(13) states they may collect and remove, or contract for the collection and removal of, all garbage, ashes, dead animals refuse and wastes from domestic premises, and construct or have constructed stations, including barns, garages, sheds, blacksmith shops, dumps, incinerators, and all other useful or necessary improvements for this purpose. This includes the power to collect and remove soil and other sewage in areas not provided with sewers, and then discharge or discharge or dispose of it into sewage works.

IC 36-9-30 is entitled "Solid Waste Collection and Disposal" and applies to all units except townships.

IC 36-9-30-2 defines "solid waste": to mean "all putrescible and nonputrescible solid and semisolid wastes, except human excreta, but including garbage, rubbish, ashes, street cleaning, dead animals, offal, and solid commercial, industrial, and institutional wastes."

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IC 36-9-30-5 sets out authorization and provisions related to contracting for collection or disposal. Subsection 5(b) requires all fees collected by the unit shall be deposited in the treasury of the unit for the administration, operation, and maintenance of the solid waste collection and disposal project. Subsection 5(d) states in part: "If a contract executed under subsection (a) or (b) will yield gross revenue to a contractor (other than a governmental entity) of at least twenty-five thousand dollars (\$25,000) during the time it is in effect, then the unit must comply with IC 36-1-12-4 in awarding the contract. The unit shall require the bidder to submit a financial statement, a statement of experience, the bidder's proposed plan or plans for performing the contract, and the equipment that the bidder has available for the performance of the contract."

IC 36-9-30-15 states: "The acquisition, establishment, construction, installation, operation, and maintenance of facilities and land for the collection and disposal of solid waste may be financed through general taxation, service fees, or a combination of these methods:"

From the foregoing statutes, there appear to be three methods available for providing trash or solid waste collection and disposal:

1. Under IC 36-9-23, the service charges can be a part of the sewage utility fees. IC 36-9-25 also authorizes all second class cities and all municipalities in Lake County to make this service a part of the sanitary district service fees.
2. IC 36-9-30 authorizes a separate utility along with a separate fund for solid waste collection, treatment, and disposal.
3. IC 36-9-30 also allows a unit to pay for this service by general taxation.

To summarize, if a unit wishes to either establish a pickup service or to change from tax-supported service to a user fee service, the foregoing statutes should be reviewed by the unit's legal counsel. The unit's attorney should prepare an ordinance expressing the governing body's wishes, the ordinance should be advertised, public hearings should be conducted, and the legislative body should act thereon. The ordinance should set out such provisions as:

1. The service to be provided.
2. The area in which the service is to be provided.
3. The method by which the service is to be provided.
4. The charges for the service. The charges should be billed separately even if established as a service of the sewage utility.
5. The method of payments of user charges, period covered, due dates, location of places payments are to be received, etc.

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6. Any penalties to be assessed for late payments.
7. The method of accounting for service charges. The Home Rule statute, as well as the other statutes cited, requires the revenues to be restricted to the amount reasonably related to the cost of providing the services. None of the statutes authorize a profit to be made or for any surplus to be transferred to another fund for other uses. Accounting shall be such that documentation will be provided to comply with the foregoing provisions.

### **RETAINAGE ON PUBLIC CONTRACTS IN EXCESS OF \$200,000**

Pursuant to IC 36-1-12-14, it is required that when public works contracts are awarded by a city or town for certain public works or improvements and such contracts exceed \$200,000, such contracts shall include provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. This statute applies to the construction, alteration, or repair of all buildings or other improvements the cost of which is paid from public funds or from special assessments imposed and levied on real estate, land and lots benefited thereby but shall not include highways, roads, streets, alleys, bridges and appurtenant structures situated on streets, alleys and dedicated highway right-of-way.

At the discretion of the contractor, the retainage shall be held by the board or shall be placed in an escrow account with a bank, savings and loan institution, or the state as escrow agent. The escrow agent shall select by mutual agreement between the board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and (1) the board and the contractor; or (2) the subcontractor and the contractor.

Where an escrow agent is selected, it is required that at the time any retainage is withheld the amount of the retainage shall be placed in an escrow account with the escrow agent, to be promptly invested by the escrow agent in its discretion. The escrowed principal and the income from the investments shall be held by the escrow agent until receipt of a notice releasing the funds in accordance with the terms of the law and the agreement.

When a bank or savings and loan institution is selected as escrow agent, the amount of the retainage withheld shall be paid by warrant to the escrow agent and, when paid, shall be treated in the same manner as any other payment on the contract, with the escrow agent being required to deposit, invest and otherwise account for the escrowed principal and interest, in accordance with the law and the terms of the agreement. The escrow account will not be carried on the records of the city or town.

The law provides that the escrow agent shall be compensated for its service as the parties may agree in an amount comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income of the escrowed account.

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**RETAINAGE ON PUBLIC CONTRACTS IN EXCESS OF \$200,000 –  
(Continued)**

To determine the amount of retainage to be withheld the board shall:

1. Withhold no more than ten percent (10%) nor less than six percent (6%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed and nothing further after that; or
2. Withhold no more than five percent (5%) nor less than three percent (3%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted within sixty-one (61) days after the date of substantial completion, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed.

There is also a requirement that the contractor furnish a performance bond equal to the contract price.

If the contractor chooses to have the retainage held by the board, then the board is not required to pay interest on the amounts of retainage it holds. However, such amounts held by the board will be carried on the records of the city or town as an agency fund.

**BOND OR CERTIFIED CHECK – FILING BY BIDDERS**

The political subdivision or agency:

- (1) Shall require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of public work is estimated to be more than two hundred thousand dollars (\$200,000); and
- (2) May require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of the public work is estimated to be not more than two hundred thousand dollars (\$200,000).

The amount of the bond or certified check may not be set at more than ten percent (10%) of the contract price. The bond or certified check shall be made payable to the political subdivision or agency.

All checks of unsuccessful bidders shall be returned to them by the board upon selection of successful bidders. Checks of successful bidders shall be held until delivery of the performance bond, as provided in IC 36-1-12-14(e). [IC 36-1-12-4.5]

# CITIES AND TOWNS BULLETIN AND UNIFORM COMPLIANCE GUIDELINES

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## **PUBLIC PURCHASES LAW – OVERVIEW**

The general rules of the law (IC 5-22) are:

1. If the item to be purchased is under \$50,000, then a city or town may purchase the item in accordance with the city or town's written rules and policies on purchasing. (IC 5-22-8)
2. If the item to be purchased is between \$50,000 and \$150,000, the city or town is to obtain at least three (3) quotes from persons known to deal in the supplies to be purchased.
3. If the item to be purchased is over \$150,000, then the city or town must obtain competitive bids.

### EXCEPTIONS TO THE GENERAL RULES

1. Request for Proposals process – IC 5-22-9
2. Special Purchases – listed in IC 5-22-10
3. Purchases from Qualified Nonprofit Agencies for Persons with Severe Disabilities – IC 5-22-13
4. Purchase of Services – IC 5-22-2
5. Small Business Set-Aside Purchases - IC 5-22-14

### OTHER PURCHASING REQUIREMENTS

1. Purchase from Department of Correction required – IC 5-22-11
2. Purchase of Rehabilitation Center Products required – IC 5-22-12
3. Petroleum Products – certain provisions required – IC 5-22-17-10

### REQUIREMENTS FOR ALL OFFERORS – IC 5-22-16

1. Responsibility
2. Responsiveness
3. Prequalified Contractors – optional
4. Evidence of Financial Responsibility – Optional
5. Performance Bond – Optional
6. Affirmation by Offeror – (noncollusion affidavit)

### PURCHASING PREFERENCES – IC 5-22-15

1. General Provisions
2. Coal Mines in Indiana
3. Supplies Manufactured in the United States
4. Recycled Materials
5. Soy/Bio Diesel
6. Indiana Businesses

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**PUBLIC PURCHASES LAW – OVERVIEW – (Continued)**

**CONTRACT PROVISIONS – IC 5-22-17 AND IC 5-22-17-20**

1. Cost Plus a Percentage of Cost Contract – not permitted
2. Cost of Reimbursement Contract
3. Time Period for Contracts
4. Appropriations – IC 5-22-17-3 and IC 5-22-17-5
5. Renewal of Contracts
6. Early Performance
7. Late Performance
8. Modification of Contracts (may include price adjustments) – IC 5-22-20-1
9. Adjustments in Price – IC 5-22-20-2

**OTHER ADMINISTRATIVE PROVISIONS**

1. Public Notice – IC 5-22-18-1
2. Acceptance of Offer – IC 5-22-18-5
3. Award of Contracts – IC 5-22-17-12
4. Cancellation of Solicitation and Rejection of Offers – IC 5-22-18-2
5. Offers Opened After Time Stated in Solicitation – IC 5-22-18-3
6. Contract and Purchase Records – IC 5-22-18-4

**MILEAGE RATE INCREASES**

Effective July 1, 2008, the State mileage reimbursement rate is increasing from 40 cents per mile to 44 cents per mile and the Federal reimbursement rate is increasing from 50 and ½ cents to 58 and ½ cents per mile.

**MEMORIAL DAY EXPENSES**

IC 10-18-8-1 provides that the respective authorities of the several counties, townships, cities and towns may appropriate annually to one (1) or more posts, garrisons, or camps of each of the following organizations in the respective counties, townships, cities or towns a sum to aid in defraying the expenses of Memorial Day:

- (1) Veterans of Foreign Wars of the United States.
- (2) United Spanish War Veterans.
- (3) Disabled American Veterans of the World War.
- (4) The American Legion.
- (5) The Army and Navy Union of the United States of America.
- (6) Marine Corps League.
- (7) Veterans of World War I, Inc.
- (8) American Veterans of World War II.
- (9) Catholic War Veterans.
- (10) Jewish War Veterans.
- (11) American Ex-Prisoners of War.
- (12) American Veterans of World War II, Korea and Vietnam (AMVETS)
- (13) American War Mothers.
- (14) Blinded Veterans Association.

# **CITIES AND TOWNS BULLETIN AND UNIFORM COMPLIANCE GUIDELINES**

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## **MEMORIAL DAY EXPENSES – (Continued)**

- (15) Congressional Medal of Honor Society of the United States of America.
- (16) Gold Star Wives of America, Inc.
- (17) Legion of Valor of the U.S.A., Inc.
- (18) Military Order of the Purple Heart of the U.S.A., Inc.
- (19) Non Commissioned Officers Association (NCOA).
- (20) Paralyzed Veterans of America.
- (21) Pearl Harbor Survivors Association, Inc.
- (22) Polish Legion of American Veterans, USA.
- (23) Regular Veterans Association.
- (24) The Retired Enlisted Association.
- (25) U.S. Submarine Veterans of World War II.
- (26) Vietnam Veterans of America, Inc.
- (27) Women's Army Corps Veterans Association.

## **VETERANS MEMORIALS**

IC 10-18-8-2 provides that the respective authorities of the several counties, townships, cities, and towns of Indiana may appropriate annually a sum of money to be allocated to an appropriate nonprofit veterans organization for the development, establishment, or maintenance of a veterans memorial located within the respective county, town, city, or township allocating the funds.

## **COMPENSATION OF CITY APPOINTIVE OFFICERS AND EMPLOYEES**

Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Such compensation must be fixed not later than September 30 of each year for the ensuing budget year.

The compensation fixed may be increased or decreased by the executive during the budget year for which it is fixed. (IC 36-4-7-3)

## **COMPENSATION OF ELECTED CITY AND TOWN OFFICERS**

The compensation of an elected city or town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year. (IC 36-4-7-2 and IC 36-5-3-2).



# CITIES AND TOWNS BULLETIN

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### **ESTABLISHING THE ESTIMATED COST OF CAPITAL ASSETS**

When it is not possible to determine the historical cost of capital assets owned by a governmental unit, the following procedure should be followed.

Develop an inventory of all capital assets which are significant for which records of the historical costs are not available. Obtain an estimate of the replacement costs of these assets. Through inquiry determine the year or approximate year of acquisition. Then multiply the estimated replacement cost by the factor for the year of acquisition from the Table of Cost Indexes. The resulting amount will be the estimated cost of the asset.

In some cases estimated replacement cost can be obtained from insurance policies; however, if estimated replacement costs are not available from insurance policies, you should obtain or make an estimate of the replacement costs.

If the replacement cost is estimated to be \$76,000.00 and the asset was constructed about 1930, then the estimated cost of the asset should be reported as \$6,840.00.

$$\$76,000.00 \times .08 = \$6,080.00$$

TABLE OF COST INDEXES  
1915 to 2007

<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>
2007	1.00	1983	.48	1959	.14	1935	.07
2006	.97	1982	.47	1958	.14	1934	.06
2005	.94	1981	.44	1957	.14	1933	.06
2004	.91	1980	.40	1956	.13	1932	.07
2003	.89	1979	.35	1955	.13	1931	.07
2002	.87	1978	.31	1954	.13	1930	.08
2001	.86	1977	.29	1953	.13	1929	.08
2000	.83	1976	.28	1952	.13	1928	.08
1999	.81	1975	.26	1951	.13	1927	.08
1998	.79	1974	.24	1950	.12	1926	.09
1997	.78	1973	.21	1949	.11	1925	.08
1996	.76	1972	.20	1948	.12	1924	.08
1995	.74	1971	.20	1947	.11	1923	.08
1994	.72	1970	.19	1946	.09	1922	.08
1993	.70	1969	.18	1945	.09	1921	.09
1992	.68	1968	.17	1944	.09	1920	.10
1991	.66	1967	.16	1943	.08	1919	.08
1990	.63	1966	.16	1942	.08	1918	.07
1989	.60	1965	.15	1941	.07	1917	.06
1988	.57	1964	.15	1940	.07	1916	.05
1987	.55	1963	.15	1939	.07	1915	.05
1986	.53	1962	.15	1938	.07		
1985	.52	1961	.14	1937	.07		
1984	.50	1960	.14	1936	.07		